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IN RE: APPLICATION OF

Agnes BIDARD et al. : EXAMINER: BUDD, M.

SERIAL NO: 09/601,327 :

FILED: August 8, 2000 : GROUP ART UNIT: 2834

FOR: ENCAPSULATED SURFACE :
ACOUSTIC WAVE COMPONENT
AND METHOD OF ...

RESTRICTION RESPONSE

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Restriction Requirement mailed July 17, 2001, Applicants elect with traverse the invention of Group I, Claims 1-6, for examination on the merits in the present application.

Applicants respectfully traverse the Restriction Requirement for several reasons.

First, Applicants respectfully traverse the Restriction Requirement because an insufficient basis for distinctness is stated.

In this regard, at page 2 of the Restriction Requirement it is indicated that:

... the SAW of group I can be made by methods other than those of group II, e.g. the SAW could be made from a pre-cut or pre-separated substrate rather than batch fabricated and separated after manufacture.

The Restriction Requirement merely states that SAWs could be made one by one and not in a batch and fails to state any step of the proposed method whereby it can be ascertained whether or not the differences are material. As noted in §MPEP 806.05(a), "the burden is on the examiner to provide reasonable examples that recite material differences." It is respectfully submitted that the burden placed upon the Examiner has not been carried.

Second, as noted in MPEP §803, "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." Since the restricted claims would appear to be part of an overlapping search area, it is respectfully submitted that the burden on the Examiner would be minimal and the burden on Applicants would be significant if Applicants were required to file and prosecute a separate divisional application.

Consequently, Applicants respectfully request this Restriction Requirement be withdrawn. Accordingly, an examination on the merits of Claims 1-11 is believed to be in order, and an early and favorable action on the merits of these claims is respectfully requested.

Respectfully submitted,

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